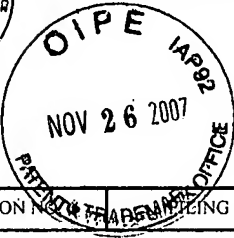




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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/817,068	04/02/2004	Michael Barborka	BARBORKA-PA-1	6085
7590 11/14/2007				
Royal W. Craig Law Offices of Royal W. Craig Suite 153 10 N. Calvert Street Baltimore, MD 21202				
		EXAMINER		
		CHAPMAN, JEANETTE E		
		ART UNIT	PAPER NUMBER	
		3633		
		MAIL DATE	DELIVERY MODE	
		11/14/2007	PAPER	

~~Please find below and/or attached an Office communication concerning this application or proceeding.~~

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/817,068	<b>Applicant(s)</b> BARBORKA, MICHAEL	
	<b>Examiner</b> Jeanette E. Chapman	<b>Art Unit</b> 3633	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 30 July 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3, 5, 7-9, 11, 13 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Johnson (4958814).

Johnson discloses framing jig for positioning and securing framing members, comprising:

- a rigid body of generally rectangular shape;
- a plurality of notches 15 opening to one side of said rigid body, each of said notches having open length and width dimensions conforming, respectively, to width and thickness dimensions of said framing members; and
- an opening 17 formed in said rigid body between two of said notches which may serve as a handle by which said framing jig is grasped; whereby when said framing jig is positioned with one of said notches around a pre-installed framing member, unsecured framing members may be positioned in the other of said notches to establish proper spacing during framing.
- The jig may be constructed of wood; see column 2, lines 50-56
- said plurality of notches are equally spaced along the one side of said rigid body.
- said opening is oval in shape.
- each of said plurality of notches 15 constrains a corresponding framing member 26 inserted therein along three sides, thereby serving as a brace against movement of said framing member.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 3633

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 2, 4, 6, 10, 12, 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson.

Johnson lacks the specific measurements for the length, width and thickness of the body, the length and width of the notches and the spacing of the notches. Such limitations are depending upon the frame member; there are many different types. Applicant is not claiming the frame in combination with the jig. Therefore one of ordinary skill in the art would have appreciated the size frame needed and the jig commensurate to the frame.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chapman E. Jeanette whose telephone number is 571-272-6841. The examiner can normally be reached on Mon.-thursday, 8:30-6:00, every fri. off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on 571-272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3633

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
JEANETTE CHAPMAN  
PRIMARY EXAMINER  
ART UNIT 3633

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**Notice of References Cited**

Application/Control No.

10/817,068

Applicant(s)/Patent Under

Reexamination

BARBORKA, MICHAEL

Examiner

Jeanette E. Chapman

Art Unit

3633

Page 1 of 1

**U.S. PATENT DOCUMENTS**

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
*	A	US-5,913,546	06-1999	Kuchenbrod et al.	29/464
*	B	US-6,070,336	06-2000	Rodgers, Ron D.	33/613
*	C	US-4,958,814	09-1990	Johnson, Brian A.	269/43
*	D	US-2,567,586	09-1951	WERDER RAYMOND E	33/562
*	E	US-5,884,411	03-1999	Raber, William G.	33/613
*	F	US-6,381,908	05-2002	Fisher, Jerry A.	52/127.2
*	G	US-4,322,064	03-1982	Jarvis, Michael	269/43
*	H	US-3,201,874	08-1965	CHRISTY DONALD F	33/613
*	I	US-5,490,334	02-1996	Payne, Douglas	33/613
*	J	US-5,628,119	05-1997	Bingham et al.	33/613
	K	US-			
	L	US-			
	M	US-			

**FOREIGN PATENT DOCUMENTS**

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
	N					
	O					
	P					
	Q					
	R					
	S					
	T					

**NON-PATENT DOCUMENTS**

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	
	V	
	W	
	X	

\*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)  
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.

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